

**TENNESSEE GENERAL ASSEMBLY
FISCAL REVIEW COMMITTEE**



FISCAL NOTE

SB 2771 - HB 2867

March 4, 2010

SUMMARY OF BILL: Authorizes the court to increase the sentence for an offense committed against an elderly person, a minor, or a disabled person to one grade level above the prescribed offense. Defines “elderly person” as a person at least 60 years of age.

ESTIMATED FISCAL IMPACT:

Increase State Expenditures - \$91,277,800/Incarceration*

Assumptions:

- According to the 2008 Tennessee Bureau of Investigation’s (TBI) Crime in Tennessee Report, there were 33,341 victims under the age of 18; 27,372 over the age of 64; and 39,110 between the ages of 55 and 64. Estimate assumes 50 percent of the 39,110 (19,555) victims would be over the age of 60 resulting in a total of 80,268 victims (33,341 + 27,372 + 19,555). A total of 463,561 victims were reported in the TBI report. Estimate assumes 17.3 percent of the victims (80,268 / 463,561) reported would be impacted by this bill.
- According to the Department of Correction (DOC), in each of the past 10 years, there has been an average of 2,798 Class E felony admissions; 2,867 Class D felony admissions; 4,222 Class C felony admissions; and 2,242 Class B felony admissions. Approximately 17.3 percent of the total admissions for each classification will be sentenced to one class higher and will serve longer sentences as a result of this bill.
- In the first year, there will be 484 Class E felony offenders (2,798 x 17.3%) serving an additional 0.65 years (an increase from a Class E at 1.31 years to 1.96 years as a Class D); 496 Class D felony offenders (2,867 x 17.3%) serving an additional 1.3 years (an increase from a Class D at 1.96 years to 3.26 years for a Class C); 730 Class C felony offenders (4,222 x 17.3%) serving an additional 2.37 years (an increase from a Class C at 3.26 years to a Class B at 5.63 years); and 388 Class B felony offenders (2,242 x 17.3%) serving an additional 9.38 years (an increase from a Class B at 5.63 years to a Class A at 15.01 years).
- According to the U.S. Census Bureau, population growth has been 1.12 percent per year for the past 10 years, yielding a projected compound population growth of 11.78 percent over the next 10 years. Population growth will result in 51 additional Class E offenders; 52 additional Class D offenders; 77 additional Class C offenders; and 41 additional Class B offenders in the tenth year. The maximum cost in the tenth year, as required by

Tenn. Code Ann. § 9-4-210, is based on 535 Class E offenders; 548 Class D offenders; 807 Class C offenders; and 429 Class B offenders.

- According to DOC, the average operating cost per offender per day for calendar year 2010 is \$59.86.
- According to DOC, the average post-conviction time served for a Class E felony is 1.31 years (478.48 days) at a cost of \$28,641.81; 1.96 years (715.89 days) for a Class D felony at a cost of \$42,853.18; 3.26 years (1,190.72 days) for a Class C felony at a cost of \$71,276.50; 5.63 years (2,056.36 days) for a Class B felony at a cost of \$123,093.71; and 15.01 years (5,482.40 days) for a Class A felony at a cost of \$328,176.46.
- The additional cost of increasing the average sentence length by 0.65 years (increase from a Class E to a Class D felony) is \$14,211.37 (\$42,853.18 - \$28,641.81). The total additional cost for 535 offenders is \$7,603,082.95 (\$14,211.37 x 535). No recidivism discount was applied to this estimate.
- According to DOC, 26.7 percent of offenders will re-offend within one year of their release. A recidivism discount of 26.7 percent has been applied to this estimate to account for the impact of offenders who would re-offend under current law within the additional time added by this bill. It is assumed that the re-offender would have committed the subsequent offense at the same felony level as under current law (548 Class D offenders x 26.7% recidivism discount = 146 offenders). The maximum cost in the tenth year is based on 402 offenders (548 – 146). The additional cost of increasing the average sentence length by 1.3 years (an increase from a Class D to a Class C felony) is \$28,423.32 (\$71,276.50 - \$42,853.18). The total additional cost for 402 offenders is \$11,426,174.64 (\$28,423.32 x 402).
- According to DOC, 40 percent of offenders will re-offend within two years of their release. A recidivism discount of 40 percent has been applied to this estimate to account for the impact of offenders who would re-offend under current law within the additional time added by this bill. It is assumed that the re-offender would have committed the subsequent offense at the same felony level as under current law (807 Class C offenders x 40% recidivism discount = 323 offenders). The maximum cost in the tenth year is based on 484 offenders (807 – 323). The additional cost of increasing the average sentence length by 2.37 years (an increase from a Class C to a Class B felony) is \$51,817.21 (\$123,093.71 - \$71,276.50). The total additional cost for 484 offenders is \$25,079,529.64 (\$51,817.21 x 484).
- According to DOC, 46.4 percent of offenders will re-offend within three years of their release. A recidivism discount of 46.4 percent has been applied to this estimate to account for the impact of offenders who would re-offend under current law within the additional time added by this bill. It is assumed that the re-offender would have committed the subsequent offense at the same felony level as under current law (429 Class B offenders x 46.4% recidivism discount = 199 offenders). The maximum cost in the tenth year is based on 230 offenders (429 - 199). The additional cost of increasing the average sentence length by 9.38 years (an increase from a Class B to a Class A felony) is \$205,082.75 (\$328,176.46 - \$123,093.71). The total additional cost for 230 offenders is \$47,169,032.50 (\$205,082.75 x 230).
- The total additional incarceration cost as a result of this bill is \$91,277,819.73 (\$7,603,082.95 + \$11,426,174.64 + \$25,079,529.64 + \$47,169,032.50).

- Any impact to the state trial courts can be accommodated within existing judicial resources without an increased appropriation.

**Tennessee Code Annotated, Section 9-4-210, requires that: For any law enacted after July 1, 1986, which results in a net increase in periods of imprisonment in state facilities, there shall be appropriated from recurring revenues the estimated operating cost of such law. The amount appropriated from recurring revenues shall be based upon the highest cost of the next 10 years.*

CERTIFICATION:

The information contained herein is true and correct to the best of my knowledge.

A handwritten signature in black ink, reading "James W. White". The signature is written in a cursive, flowing style.

James W. White, Executive Director

/lsc